

## MEMORANDUM

Agenda Item No. 13(A) (1)

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**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

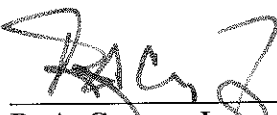
**DATE:** April 3, 2012

**FROM:** R. A. Cuevas, Jr.  
County Attorney

**SUBJECT:** Resolution authorizing  
certain settlement in the  
amount of \$106,410.00 in  
County eminent domain  
proceedings by County  
Attorney

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The accompanying resolution was prepared and placed on the agenda by the County Attorney's Office.

  
\_\_\_\_\_  
R. A. Cuevas, Jr.  
County Attorney

RAC/jls



# MEMORANDUM

(Revised)

**TO:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**DATE:** April 3, 2012

**FROM:** R. A. Cuevas, Jr.  
County Attorney

A handwritten signature in black ink, appearing to read "R. A. Cuevas, Jr.", is written over the printed name of the County Attorney.

**SUBJECT:** Agenda Item No. 13(A) (1)

Please note any items checked.

- ☐ "3-Day Rule" for committees applicable if raised
- ☐ 6 weeks required between first reading and public hearing
- ☐ 4 weeks notification to municipal officials required prior to public hearing
- ☐ Decreases revenues or increases expenditures without balancing budget
- ☐ Budget required
- ☐ Statement of fiscal impact required
- ☒ Ordinance creating a new board requires detailed County Manager's report for public hearing
- ☐ No committee review
- ☐ Applicable legislation requires more than a majority vote (i.e., 2/3's \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_ ) to approve
- ☐ Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

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Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 13(A)(1)  
4-3-12

RESOLUTION NO. \_\_\_\_\_

RESOLUTION AUTHORIZING CERTAIN SETTLEMENT IN THE AMOUNT OF \$106,410.00 IN COUNTY EMINENT DOMAIN PROCEEDINGS BY COUNTY ATTORNEY IN CONNECTION WITH THE ACQUISITION OF LAND FOR THE RIGHT-OF-WAY NEEDED FOR IMPROVEMENTS TO SW 27 AVENUE FROM US 1 TO SOUTH BAYSHORE DRIVE AND AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS

**WHEREAS**, this Board by Resolution No. R-1204-08 dated November 20, 2008 previously declared the acquisition of land for the right-of-way needed for the expansion, beautification, and right-of-way improvements to SW 27<sup>th</sup> Avenue from US 1 to South Bayshore Drive in Miami-Dade County, Florida, to be a public necessity and authorized the acquisition of land therefor by eminent domain proceedings; and

**WHEREAS**, the business owner of Parcel 27, as set forth in the attached land acquisition summary sheet, has offered to settle for the figure specified therein; and

**WHEREAS**, this project is being funded by the use of Charter County Transportation Surtax Funds, and this settlement thus must be submitted for the review and recommendation of the Citizens Independent Transportation Trust; and

**WHEREAS**, the County Attorney hereby recommends the settlement amounts as set forth in the attached land acquisition summary sheet,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that:**

Section 1. This Board ratifies and adopts the matters set forth in the foregoing recitals, and

Section 2. This Board authorizes the County Attorney to compromise and settle on behalf of the County, claims by the business owner against the County in eminent domain proceedings for Parcel 27 on the terms and in the amount specified in the attached land acquisition summary sheet, and authorizes the use of Charter County Transportation Surtax Funds.

The foregoing resolution was offered by Commissioner ,  
who moved its adoption. The motion was seconded by Commissioner  
and upon being put to a vote, the vote was as follows:

Joe A. Martinez, Chairman	
Audrey M. Edmonson, Vice Chairwoman	
Bruno A. Barreiro	Lynda Bell
Esteban L. Bovo, Jr.	Jose "Pepe" Diaz
Sally A. Heyman	Barbara J. Jordan
Jean Monestime	Dennis C. Moss
Rebeca Sosa	Sen. Javier D. Souto
Xavier L. Suarez	

The Chairperson thereupon declared the resolution duly passed and adopted this 3<sup>rd</sup> day of April, 2012. This resolution shall become effective ten (10) days after the date of its adoption unless vetoed by the Mayor, and if vetoed, shall become effective only upon an override by this Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

HARVEY RUVIN, CLERK

Approved by County Attorney as  
to form and legal sufficiency.

Debra Herman



By: \_\_\_\_\_  
Deputy Clerk

## LAND ACQUISITION SUMMARY SHEET

**PROJECT LOCATION:** Roadway expansion, beautification, and right-of way improvements to SW 27<sup>th</sup> Avenue from US 1 to South Bayshore Drive in Miami-Dade County, Florida

**PARCEL NUMBER:** Parcel No. 27  
(Business damage claims)

**OWNERSHIP INTEREST:** Tom Thumb Food Stores, Inc., a Florida Corp.  
d/b/a E-Z Kwik  
Business Owner on Parcel 27

**COUNTY'S BUSINESS DAMAGES ESTIMATE :** Range of \$58,000.00 to \$85,000.00  
Henry Janus, C.P.A.

**OWNER'S BUSINESS DAMAGES CLAIM:** Range of \$108,000.00 to \$125,000.00  
James Robinson, C.P.A.

**ATTORNEYS' FEES:** See Comments

**SETTLEMENT AMOUNT:** The total settlement amount is \$106,410.00.  
(See Comments below – this amount also includes the business owner's attorneys' fees and expert fees for Parcel 27).

**EXPOSURE TO COUNTY:** \$40,000.00  
(Difference between owner's business damages claim and County's business damages estimate)

**COMMENTS:** A proposed settlement was reached in the amount stated above. In order for the County to obtain clear title to this parcel, eminent domain proceedings had to be instituted. The settlement amount of \$106,410.00 represents full compensation for the business owner's claims as to this parcel, and includes \$85,000.00 for the damages to the business, \$8,910.00 for statutory attorneys' fees of the business owner, and \$12,500.00 for statutory expert fees of the business owner. Staff has confirmed that this project is listed in Exhibit 1 of the PTP Ordinance under Major Roadway and Neighborhood Improvement Projects. The landowner is represented by the law firm of Weiss Serota.

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## Memorandum



**To:** Honorable Chairman Joe A. Martinez  
and Members, Board of County Commissioners

**From:** Charles Scurr, Executive Director *Cscurr*

**Date:** March 21, 2012

**Re: CITT AGENDA ITEM 5J:**

RESOLUTION BY THE CITIZENS' INDEPENDENT TRANSPORTATION TRUST (CITT) RECOMMENDING THAT THE BOARD OF COUNTY COMMISSIONERS (BCC), APPROVE A CERTAIN SETTLEMENT IN THE AMOUNT OF \$106,410.00 IN COUNTY EMINENT DOMAIN PROCEEDINGS BY COUNTY ATTORNEY IN CONNECTION WITH THE ACQUISITION OF PARCEL 27, FOR RIGHT-OF-WAY NEEDED FOR THE PEOPLE'S TRANSPORTATION PLAN (PTP) PROJECT ENTITLED, ROADWAY EXPANSION AND IMPROVEMENTS TO SW 27 AVENUE, FROM US 1 TO SOUTH BAYSHORE DRIVE; AND AUTHORIZING THE USE OF CHARTER COUNTY TRANSPORTATION SURTAX FUNDS (CAO/PWWW)

On March 21, 2012, the CITT voted (10-0) to forward a favorable recommendation to the Board of County Commissioners (BCC) for the approval of the above referenced item, CITT Resolution No. 12-031. The vote was as follows:

Hon. Linda Zilber, Chairperson – Aye  
Paul J. Schwiep, Esq., 1st Vice Chairperson – Aye  
Hon. Anna E. Ward, Ph.D., 2nd Vice Chairperson – Aye

Christopher Benjamin, Esq. – Absent  
David Concepcion – Absent  
Glenn J. Downing, CFP® – Aye  
Alfred J. Holzman – Aye  
Miles E. Moss, P.E. – Aye  
Marilyn Smith – Absent

Harold Braynon, Jr. – Absent  
Joseph Curbelo – Aye  
Peter L. Forrest – Aye  
Prakash Kumar – Aye  
Hon. James A. Reeder – Aye

cc: Alina Hudak, Deputy Mayor/County Manager  
Bruce Libhaber, Assistant County Attorney  
Alexander Bokor, Assistant County Attorney

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